



पेंशन निधि विनियामक और  
विकास प्राधिकरण  
बी-14/ए, छत्रपति शिवाजी भवन,  
कुतुब संस्थागत क्षेत्र,  
कटवारिया सराय, नई दिल्ली-110016  
दूरभाष : 011-26517501, 26517503, 26133730  
फैक्स : 011-26517507  
वेबसाईट : www.pfrda.org.in

PENSION FUND REGULATORY  
AND DEVELOPMENT AUTHORITY  
B-14/A, Chhatrapati Shivaji Bhawan,  
Qutub Institutional Area,  
Katwaria Sarai, New Delhi-110016  
Phone : 011-26517501, 26517503, 26133730  
Fax : 011-26517507  
Website : www.pfrda.org.in

## **Guidelines for empanelment of Advocates/law firms for representing and assisting the Pension Fund Regulatory and Development Authority before various Courts, Tribunals and Forums**

Pension Fund Regulatory and Development Authority Act was passed on 18th September, 2013 and the same was notified on 1st February, 2014. Pension Fund Regulatory and Development Authority (hereinafter referred to as 'PFRDA/the Authority') is a statutory regulatory body set up for regulating pension sector, subscribed by employees of Govt. of India, State Governments, private institutions/organizations, unorganized sectors and individuals. PFRDA is ensuring the orderly growth and development of pension sector in India.

PFRDA is presently a party to various litigations before various Courts, Tribunals and Forums. PFRDA hereby frames the following guidelines to provide the manner and to regulate the procedure of empanelling the Advocates to represent and assist the Authority before various courts, tribunals and forums. These guidelines shall supersede all existing instructions issued in this regard, if any, including those issued to existing empanelled Advocates/Law Firms.

### **1. Definitions**

For the purpose of these Guidelines, the terms used will have the following meaning:

- i. 'Advocate' means an Advocate, entered in any roll of Advocates under the provisions of the Advocates Act, 1961.
- ii. 'Competent Authority' shall be the Authority or any officer so designated by the Authority.
- iii. 'Court' shall mean and include Supreme Court, High Courts, Subordinate Courts or tribunals including Securities Appellate Tribunal/Central Administrative Tribunals, other tribunals, commissions, authorities, etc.
- iv. 'Effective Hearing' shall mean a hearing in which either one or both or all the parties involved in a case are heard by the court. If the matter is called in its turn and the Advocate is present to represent PFRDA and the Court/Tribunal/Forum listens to the submissions made by him or by other side or by both and if, thereafter, the



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Court/Tribunal/Forum adjourns the matter, that will be treated as effective hearing. If the case is only mentioned and adjourned or only directions are given or judgement is pronounced, it would not constitute an effective hearing for the purpose of these guidelines but as non-effective hearing.

- v. 'Similar Cases' shall mean two or more cases in which identical or substantially similar questions of law or facts are involved.

## 2. General

- i. The size of the panel and number of Advocates in panel shall be determined by the Competent Authority from time to time based on the requirement and quantum of work.
- ii. Every panel shall consist of Advocates from diversified fields viz. PFRDA Act and rules and regulations issued thereunder, constitutional law, service law, contract law, family law, commercial law, securities law, banking law, insurance law, taxation law, etc.
- iii. For the purposes of empanelment and for engagement of professional services, requisite knowledge in relation to the National Pension System and other pension schemes within the jurisdiction of PFRDA, and in-depth knowledge of PFRDA Act, 2013 and Rules and Regulations issued thereunder, as also knowledge and experience in relation to other securities law shall be required at all times.
- iv. Notwithstanding such empanelment, PFRDA shall be free and without any restriction to assign cases/legal work to any other legal professional or Advocate who is not empanelled by it.
- v. Empanelment will only confer a right to be considered for legal work, if any, and not bind PFRDA to award or give work to any Advocate, so empanelled, at any point of time during the term of engagement.
- vi. The allocation of cases/legal work shall be at the sole discretion of PFRDA. Upon termination or non-renewal of term of empanelment, as the case may be, the Advocate shall return the brief(s) allocated to the Advocate by the Authority along with all other documents/records connected thereto with no objection certificate, if so required. No Advocate shall have the right to represent PFRDA or undertake any activity upon expiry or termination of the term of engagement.



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- vii. Cases involving similar issues/points of law or otherwise interlinked or clubbed may be entrusted to the same Advocate as far as possible, while care shall be taken to avoid concentration of cases in the hands of one Advocate/ a few advocates/ law firm.
- viii. The empanelled Advocates shall not delegate cases and shall themselves deal with the same. They may have to coordinate and work with designated Senior Advocates, if any, engaged in the case as well as with the officers of the Authority, if required.
- ix. The empanelled Advocates shall not be employees of the Authority and therefore, shall not be eligible for any benefits available to the employees of the Authority.
- x. The empanelled Advocate shall not use PFRDA's name, logo, symbol, etc. on their letterhead, signboard, nameplate, pamphlets, etc., such as 'Legal Advisor of PFRDA', 'Advocate of PFRDA', etc. No empanelled Advocate shall represent himself as the Standing Counsel of the Authority before any court or forum unless specified as such by the Authority.
- xi. The Advocate shall ensure efficient and effective professional services and bestow commensurate attention in relation to matters of PFRDA and conduct himself at all times in accordance with the Advocates Act, 1961 and rules laid down by the Bar Council of India, including rules regarding code of conduct and ethics.
- xii. The Advocate while pursuing any case on behalf of the Authority shall not act without instructions of the Authority and inform the Authority about the proceedings of each hearing by reporting mail and furnish copy of orders of each date without which the Authority may not settle bills of payment.
- xiii. The Advocate shall not seek any adjournment without any valid or cogent reasons. Under no circumstances, the matters entrusted by the Authority should go unattended before the Court/Tribunal/ Forum, which shall be viewed as serious violation of conditions of empanelment and may entail taking back the brief or cancellation of such empanelment.
- xiv. The performance of each empanelled Advocate shall be reviewed periodically based on which an assessment shall be made about the continuation of empanelment. The decision of the Authority in this regard shall be final.
- xv. The empanelled Advocate shall maintain strict confidentiality of the cases or other matters handled on behalf of the Authority and shall not divulge any information to any



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third party or to the media. Any Advocate who is found to have violated the above condition shall be liable to have his empanelment cancelled immediately without further notice.

- xvi. Refusal of any empanelled Advocate to take up a matter in behalf of the Authority, without proper justification or grounds, shall entail cancellation/withdrawal of engagement.
- xvii. The Authority reserves the right to modify or relax the terms and conditions of engagement at any time and also the right to verify the information submitted by the Advocate/law firm. The Advocates shall in full accept the terms and conditions of the empanelment as determined by the Authority from time to time.
- xviii. The Advocate should have an office at the place where empanelment is sought. The Advocate should have adequate infrastructure in terms of accessible office, chambers, library, manpower, etc. which shall be considered at all times.
- xix. The Advocate should have excellent communication skills.
- xx. In case of empanelment of Law Firms, all the terms and conditions for empanelment of the individual Advocates shall apply *mutatis mutandis* to them.
- xxi. Law firms should have sufficient legal professionals to form a dedicated team comprising associates/senior associates and partners, who have rich experience in litigations/drafting particularly regarding financial and regulatory matters.
- xxii. The shortlisted Advocates may, if necessary, be called for interaction and an intimation in this regard will be communicated to the Advocate on his correspondence address or email address provided by the Advocate. No TA/DA will be admissible for attending such interaction.
- xxiii. PFRDA reserves the right to accept or reject any application without assigning any reason or to postpone or cancel the entire process.
- xxiv. If required and considered appropriate by the Competent Authority, Attorney General of India/Solicitor General of India/Additional Solicitor General/Advocate General/Designated Senior Advocates may be engaged to argue the cases on behalf of the Authority keeping in view the urgency and importance of a particular matter. They shall be engaged on case to case basis with the approval of the Competent Authority.



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### 3. Broad Scope of Work

- i. To represent PFRDA before the Honourable Supreme Court of India, High Courts, Subordinate Courts and tribunals including Securities Appellate Tribunal, Central Administrative Tribunal, other tribunals, commissions, authorities, etc.
- ii. To represent PFRDA before various Arbitration Tribunals in disputes which are referred by the Courts to the Arbitration Tribunals or by the choice of the parties to the dispute.
- iii. Drafting and vetting of affidavits, applications, petitions, replies, written statements, replications, rejoinders, caveats, brief for opinion and any other legal document including deeds, regulations, etc.
- iv. To provide legal opinion on queries raised.
- v. To prepare and/or vet MoUs, agreements/contracts/RFPs/Tenders/EOI/letters and other documents.
- vi. Keep the Authority informed of the date-wise developments in cases from time to time, particularly with regards to settling of drafts, filing of papers, dates of hearing of cases, supplying copies of judgements/interim orders.
- vii. To perform such other duties of legal nature that may be assigned by the Authority.

### 4. Tenure/Term of Empanelment

The initial empanelment will be for a period of three years or until further renewal, whichever is earlier. Renewal for another term of three years shall be based on satisfactory performance and handling of cases for the Authority. The Authority reserves the right to terminate the empanelment of any Advocate at any time without assigning any reason. The empanelment shall not confer any right for engagement and/or allocation of cases.

### 5. Eligibility for Empanelment

- i. The Advocate should have a Bachelor Degree in Law from a recognized university and registration with a Bar Council. The Advocate-on-Record should have been registered with the Supreme Court of India as such.



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- ii. The Advocates should be familiar with various branches of law, especially those concerning PFRDA Act, 2013 and the rules and regulations issued under the Act, Constitutional Law, securities law, laws in the financial sector including banking and insurance, in-depth knowledge of investigation and inquiry, Service Law, Labour Law, Contract Law, Commercial Law, Property Law, civil law Taxation, Arbitration, etc.
- iii. In addition to above, the Advocates are required to have the minimum professional/court practice experience as under:
  - a. For empanelment for the Supreme Court: 10 years' experience in the Supreme Court;
  - b. For empanelment for the High Courts/SAT: 7 years' experience in the High Court/SAT;
  - c. For empanelment for the Subordinate Courts/Tribunals: 5 years' experience in the Subordinate Courts/Tribunals
  - d. In case of law firms, the managing partner and one another senior partner of the firm should have at least 10 years of practice each.

Provided that the Competent Authority may relax the above conditions at its discretion, if otherwise found suitable in certain cases.

Provided further that an Advocate-on-Record of the Supreme Court who practices regularly would be considered if they are otherwise found to be competent and suitable.

## 6. Payment of Fee and Other Conditions

- i. The fee payable shall be governed by the Schedule of Fee structure as approved by the Board of PFRDA and as amended from time to time.
- ii. The Schedule of Fee, as approved by the Board of PFRDA and as amended from time to time, shall be the maximum fee payable and the Authority shall have the right to negotiate a lower fee based upon its assessment of the importance of the case, urgency and other factors. The decision on quantum of fee payable by PFRDA shall be final and binding in this regard.



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- iii. Where two or more cases are substantially identical or similar questions of laws and facts are involved or arises out of the same action, proceedings or where matters are connected or heard together and common or identical judgement is delivered, irrespective of the fact whether all the cases are heard together or not, the Advocate shall be paid the full fee in the main case and 50% of the fee in each of the connected case(s).
- iv. If more than one matter of similar or different nature is listed in the same court on the same day, the Advocate shall be paid full fee, as entitled, in the first case and 50% of the fee, as entitled, in each of the other case(s).
- v. If a Senior Advocate of extraordinary repute is engaged to defend or contest any case of PFRDA, the fee payable to him will be negotiated in advance and prior approval of the Competent Authority shall be taken before such engagement.
- vi. If the Advocate is required to travel outside the town in connection to a case where interests of PFRDA is involved, the Advocate shall be entitled to claim TA/DA as applicable to the officers of the Authority, maximum to the limit admissible to the Executive Director of the Authority, depending upon the seniority of the lawyer concerned.
- vii. The fee schedule may be revised by the Authority, as and when deemed necessary by the Authority.
- viii. The Advocate shall not be paid any additional fees for providing legal opinion pertaining to the result of a case where the said Advocate had represented the Authority.
- ix. No retainer fee shall be paid to any panel Advocate merely because such Advocate has been empanelled.

#### **7. Documents to be submitted by the Advocate**

The Advocates will be required to furnish the following documents along with the application in a sealed envelope with clearly marked "Application for Empanelment as Advocate" on it to the address specified in the Notice/Advertisement:

- i. Copy of Law Degree and other qualifications
- ii. Copy of Registration Certificate Issued by the Bar Council



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- iii. Copy of Identity Card issued by the Bar Association
- iv. Copy of ID Proof
- v. Copies of 10 judgements where the Advocate/Law Firm has appeared as pleader
- vi. Copies of Empanelment Letter issued by other Authorities/entities in favour of the Advocate
- vii. Resume' with a brief profile of experience, background, education, list of clients and nature of cases dealt with
- viii. Two recent coloured passport size photographs
- ix. Copy of Income Tax Returns for last two financial years

Provided that:

- i. No application sent through email will be entertained for empanelment.
- ii. The applications received will be short listed. The PFRDA reserves the right to decide the criteria of short-listing. Preference shall be given to law firms/Advocates who are specializing/ have experience in handling matters relating to financial sector or are empanelled or handling cases of financial sector regulators like RBI/SEBI/IRDAI/PFRDA and practicing in the field of pension sector and securities market before Hon'ble SAT/Courts. With reference to empanelment in service matters preference shall be given to Advocates specializing in service matters before Hon'ble CAT/High Court/Supreme Court of India.
- iii. Advocates/Law Firms who are empanelled shall be informed about such empanelment as and when the process is complete. There shall be no obligation on PFRDA to complete the process within any specified time or limit. PFRDA shall not entertain any request or query from any desirous applicants on the status of their empanelment at any time.

## 8. Communication of Empanelment

After decision to empanel the Advocate is taken, a communication in writing to this effect shall be sent to the Advocate with the acknowledgement and acceptance due. The process of



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empanelment shall be complete when the Authority receives and acceptance letter from the Advocate.

#### **9. Right to Private Practice and Restrictions**

- i. An Advocate shall have the right to private practice which should not, however, interfere with or be in conflict with the efficient discharge of his duties as an empanelled Advocate of the Authority.
- ii. An Advocate shall not advise any party or accept any case against the Authority in which he has appeared or is likely to be called upon to appear or advice.

#### **10. Disablements**

Disablement on the part of the Advocate shall mean and include any of the following:

- i. Giving false information in the application for empanelment;
- ii. Handing over the brief or matter to another advocate without prior written permission of the Authority;
- iii. Failing to attend the hearing of the case without sufficient reason and prior information;
- iv. Not acting as per the Authority's instructions or going against the specific instructions;
- v. Not returning the brief when demanded or not allowing or evading to allow its inspection on demand;
- vi. Misappropriation of the Authority's funds earmarked for a particular purpose, using same towards his fee without the Authority's permission;
- vii. Threatening, intimidating or abusing any of the Authority's employees, officers or representatives;
- viii. Making any of his associates or juniors to appear on behalf of any of the opposite parties in cases related to PFRDA without the Authority's permission
- ix. Committing an act tantamount to contempt of court or professional misconduct;
- x. Conviction of Advocate in any offence resulting in arrest or detention or disbarment by the Bar Council;



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- xi. Passing on information relating to the Authority's case to opposite parties or their advocates which is likely to cause damage to the Authority's interests;
- xii. Giving false or misleading information to the Authority relating to the proceedings of the case; and
- xiii. Frequent adjournment being obtained or not objecting the adjournment moved by other party without sufficient reasons.

Empanelment shall be liable to be cancelled due to occurrence of any of the above disablements on the part of the Advocate.

#### **11. Removal of Difficulty**

In the matter of implementation of these guidelines if any doubt or difficulty arises or doubt regarding the interpretation of any clause of these guidelines arises, the decision of the Competent Authority of PFRDA shall be final.

Disputes, if any, in relation to empanelment or out of the process shall be subject to exclusive jurisdiction of courts of New Delhi only.

## ANNEXURE 'A'

### FORMAT OF APPLICATION

The General Manager (Legal)  
Pension Fund Regulatory and Development Authority  
Chhatrapati Shivaji Bhawan, B-14 A,  
Qutab Institutional Area, Katwaria Sarai,  
New Delhi-110016.

Sir/Ma'am,

Sub – Application for Empanelment as Advocate

- (1) Name of the Advocate/ Law Firm:
- (2). Year of enrolment with Bar Council
- (3) In case of firm- date of Establishment/Formation of the Law Firm: (With documentary evidence/proof) of certificate of incorporation/partnership deed
- (4) Total No. of Experience of the Advocate/ Law Firm (Managing partner and senior partners):
- (5) Address Details:
- (6) Contact No. of the authorised person and Email Id.:
- (7) Name(s) of the Managing Partner(s) in case of firm:
- (8) Name(s) of the Financial regulators/other regulators or Govt Institutions/PSUs with which empanelled with proof.
- (9) Annual Turnover for past two financial years (in case of law firms)
- (10) Names & Experience details/Profiles of the Partner & other team members
- (11) Details of Following
  - (i) GSTIN (in case of law firms)
  - (ii) PAN

**I hereby declare that I have verified the details indicated above and also confirm that all the information submitted is true to the best of my knowledge.**

**Signature of Advocate**

**Address:**

**Tel./Mob. No.:**

**E-mail:**